

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 269, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning state
- 3 and local administration and to make an appropriation.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 4-10-21-0.5 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2004]: **Sec. 0.5. (a) As used in this chapter, "operating**
- 8 **expenses" refers to operating expenses, as determined under the**
- 9 **standards prescribed by the state board of accounts, of state**
- 10 **agencies that are to be paid from any fund or source.**
- 11 **(b) The term includes, but is not limited to, payments for the**
- 12 **following:**
- 13 **(1) Personal services, including payments for salaries and**
- 14 **wages to officers and employees of the state (either regular**
- 15 **or temporary), payments for compensation awards, and the**
- 16 **employer's share of Social Security, health insurance, life**
- 17 **insurance, disability insurance, and retirement fund**
- 18 **contributions.**
- 19 **(2) Supplies, materials, and parts.**
- 20 **(3) Grants, subsidies, refunds, and awards.**
- 21 **(4) Travel.**
- 22 **(5) Machinery, implements, tools, furniture, furnishings,**
- 23 **vehicles, and other articles that have a calculable period of**
- 24 **service that exceeds twelve (12) calendar months.**

- 1           (6) Other administrative expenses.
- 2           (7) Services other than personal services
- 3       (c) The term does not include the following:
- 4           (1) Capital expenses, as determined under generally
- 5           accepted accounting principles.
- 6           (2) Expenditures for any of the following:
- 7               (A) Transfers of money among the state general fund,
- 8               the property tax replacement fund, and the
- 9               counter-cyclical revenue and economic stabilization
- 10              fund.
- 11              (B) Reserve fund deposits.
- 12              (C) Refunds of intergovernmental transfers.
- 13              (D) Payment of judgments against the state and
- 14              settlement payments made to avoid a judgment against
- 15              the state, other than a judgment or settlement payment
- 16              for failure to pay a contractual obligation or a personnel
- 17              expenditure.
- 18              (E) Distributions or allocations of state tax revenues to
- 19              a unit of local government under IC 36-7-13,
- 20              IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.
- 21              (F) Motor vehicle excise tax replacement payments.
- 22              (G) Distributions of state tax revenues collected under
- 23              IC 7.1 that are payable to cities and towns.
- 24           (3) Expenditures from federal funds or gifts designated for
- 25           a particular purpose.

26           SECTION 2. IC 4-10-21-9 IS ADDED TO THE INDIANA CODE  
 27           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 28           1, 2004]: Sec. 9. (a) The budget agency shall determine the  
 29           inflation multiplier under this section.

30           (b) Not later than March 1 in each year, the budget agency  
 31           shall determine the extent to which the general level of prices in  
 32           the United States has increased in the previous year above the  
 33           general level of prices that existed in the year preceding the  
 34           previous year. The computation must be based on:

- 35               (1) the Consumer Price Index for Urban Wage Earners and
- 36               Clerical Workers: U.S. City Average, All Items, updated
- 37               monthly by the Bureau of Labor Statistics of the United
- 38               States Department of Labor; or
- 39               (2) a successor index issued by the government of the
- 40               United States to indicate increases in the general level of
- 41               prices in the United States;

42           used on a consistent basis from year to year.

43           (c) The budget agency shall determine the inflation multiplier  
 44           for an ensuing state fiscal year under the following STEPS:

45               STEP ONE: Express the percentage increase in the general  
 46               level of prices determined under subsection (b) as a decimal

number rounded to the nearest one thousandth (0.001). If the budget agency determines that the general level of prices in the United States has decreased, the percentage increase shall be treated as zero (0).

**STEP TWO: Determine the sum of the STEP ONE amount and one (1).**

(d) The budget agency shall publish the inflation multiplier applicable to the ensuing state fiscal year in the Indiana Register not later than June 1 of the year in which it is determined.

SECTION 3. IC 4-10-21-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) As used in this section, "encumbrance" means an accounting notation made for budget control purposes to record a commitment to use any part of an appropriation to pay an unpaid obligation.

(b) As used in this section, "inflation multiplier" refers to the inflation multiplier determined for a state fiscal year under section 9 of this chapter.

(c) As used in this section, "state agencies" mean:

- (1) all offices, officers, boards, commissions, departments, divisions, bureaus, committees, agencies, authorities, councils, or other instrumentalities of the state;
- (2) all hospitals, penal institutions, and other institutional enterprises of the state;
- (3) the judicial department of the state; and
- (4) the legislative department of the state.

(d) Notwithstanding any other provision, the total amount of expenditures, encumbrances, and delayed payments made by all state agencies for operating expenses in each state fiscal year beginning after June 30, 2005, may not exceed the amount determined under the following STEPS:

**STEP ONE: Determine the sum of:**

- (A) the expenditures made in the immediately preceding state fiscal year for operating expenses; and
- (B) the encumbrances made in the immediately preceding state fiscal year for operating expenses that are outstanding on July 1 of the current state fiscal year.

**STEP TWO: Multiply the result determined under STEP ONE by the inflation multiplier determined for the state fiscal year.**

(e) This section may be enforced in a private individual or class action suit. Successful plaintiffs are allowed costs and reasonable attorney's fees. The state may recover costs and reasonable attorney's fees only if a suit against the state is ruled frivolous.

SECTION 4. IC 4-10-21-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) This section applies only if state revenue collected in a state fiscal year exceeds the maximum total expenditures that may be expended in the state fiscal year, as determined under sections 5 and 10 of this chapter.

(b) Notwithstanding any other provision, an amount determined under the following STEPS shall be transferred at the close of the state fiscal year to the counter-cyclical revenue and economic stabilization fund (rainy day fund) established by IC 4-10-18-2 from each fund administered by a state agency:

STEP ONE: Determine the result of:

(A) the balance of the fund as of June 30; divided by

(B) the total balances of all funds administered by all state agencies.

STEP TWO: Multiply the STEP ONE result by the amount by which state revenue collected in the state fiscal year exceeds the maximum total expenditures that may be expended in the state fiscal year, as determined under sections 5 and 10 of this chapter.

SECTION 5. IC 6-1.1-1-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8.9. (a) As used in this article, "operating expenses" refers to operating expenses, as determined under the standards established by the state board of accounts, of a political subdivision that are to be paid from any fund or source.

(b) The term includes payments for the following:

(1) Personal services, including payments for salaries and wages to officers and employees of the state (either regular or temporary), payments for compensation awards, and the employer's share of Social Security, health insurance, life insurance, disability insurance, and retirement fund contributions.

(2) Supplies, materials, and parts.

(3) Grants, subsidies, refunds, and awards.

(4) Travel.

(5) Machinery, implements, tools, furniture, furnishings, vehicles, and other articles that have a calculable period of service that exceeds twelve (12) calendar months.

(6) Other administrative expenses.

(7) Services other than personal services

(c) The term does not include the following:

(1) Capital expenses, as determined under the standards prescribed by the state board of accounts.

(2) Expenditures for any of the following:

(A) Transfers of money among the funds of the political

subdivisions.

(B) Reserve fund deposits.

(C) Refunds of intergovernmental transfers.

(D) Payment of judgments against the political subdivision and settlement payments made to avoid a judgment against the political subdivision, other than a judgment or settlement payment for failure to pay a contractual obligation or a personnel expenditure.

(E) Debt service.

(3) Expenditures from federal funds or gifts designated for a particular purpose.

SECTION 6. IC 6-1.1-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) If there is a conflict between the provisions of this chapter (**other than a conflict with section 12 or 13 of this chapter**) and the provisions of IC 6-1.1-19 or IC 6-1.1-18.5, the provisions of the latter two (2) chapters control with respect to the adoption of, review of, and limitations on budgets, tax rates, and tax levies.

(b) If there is a conflict between section 12 or 13 of this chapter and any other law, unless the other law, through language enacted in an act adopted after March 15, 2004, expressly states otherwise, the provisions of section 12 and 13 of this chapter control with respect to the adoption of, review of, and limitations on the budgets, tax rates, and tax levies of a taxing unit.

SECTION 7. IC 6-1.1-18-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) This section applies to all political subdivisions except school corporations.

(b) The department of local government finance shall compute a new inflation multiplier under this subsection before March 1, 2005, and March 1 in each year thereafter. The inflation multiplier determined under this subsection applies to the year in which it is computed. The inflation multiplier to be used in the year is the amount determined under STEP THREE of the following formula:

**STEP ONE:** Determine the extent to which the general level of prices in the United States has increased in the previous year above the general level of prices that existed in the year immediately preceding the previous year. The computation must be based on:

(A) the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, updated monthly by the Bureau of Labor Statistics of the United States Department of Labor; or

(B) a successor index issued by the government of the United States to indicate increases in the general level of prices in the United States.

Express the increase as a decimal number rounded to the nearest one thousandth (0.001). If the department of local government finance determines that the general level of prices in the United States has decreased, the percentage increase shall be treated as zero (0).

**STEP TWO:** Determine the sum of the STEP ONE amount and one (1).

**STEP THREE:** Add the STEP TWO amount and:

(A) One hundredth (0.01), if result under item (iii) is greater than one and two hundredths (1.02).

(i) Divide the total assessed value of all the taxable property in the political subdivision in the year immediately preceding the ensuing year by the total assessed value of all the taxable property in the political subdivision in the year preceding the ensuing year by two (2).

(ii) Divide the sum of the assessed value of all taxable property in all political subdivisions in the year immediately preceding the ensuing year by the sum of the assessed value of all taxable property in all political subdivisions in the year preceding the ensuing year by two (2).

(iii) Divide the result determined under item (i) by the result determined under item (ii); or

(B) zero (0) if the result under clause (A)(iii) is not greater than one and two hundredths (1.02).

The department of local government finance shall certify the inflation multiplier for a political subdivision to the fiscal body of the political subdivision and the county clerk for each county in which the political subdivision is located.

(c) In addition to complying with any other budget, property tax levy, and property tax rate limits imposed by law, a political subdivision must comply with the expenditure limit imposed by this section.

(d) Except as authorized by section 14 of this chapter, a political subdivision may not in a year:

(1) pay operating expenses (except from an amount encumbered in a previous year); or

(2) encumber money to pay year after the end of the year operating expenses incurred in the year;

in an amount that, in the aggregate, exceeds the total operating expenditure limit for the year, as determined under subsection (e).

(e) The total operating expenditure limit applicable to a political subdivision in a year is equal to the amount determined under STEP TWO of the following formula:

**STEP ONE: Determine the lesser of the following:**

**(A) The total amount:**

**(i) paid for operating expenses in the immediately preceding year (excluding amounts paid from an encumbrance made in the year preceding the current year by two (2)); and**

**(ii) encumbered in the immediately preceding year to pay after the end of the immediately preceding year operating expenses incurred in the immediately preceding year.**

**(B) For years after December 31, 2005, the total operating expenditure limit determined under this subsection for the year.**

**However, if the political subdivision was not in existence for the immediately preceding year, the department of local government finance shall establish the initial amount to be used under this STEP.**

**STEP TWO: Multiply the STEP ONE amount by the inflation multiplier for the year.**

**(f) Any part of a payment or an encumbrance for a payment that, when added to all other payments and encumbrances for operating expenses made in a budget year, exceeds the total operating expenditure limit for the political subdivision, is void.**

**(g) The amount of revenue not dedicated to a particular purpose that is received in a year by a political subdivision and that exceeds the total operating expenditure limit for the year must be:**

**(1) used, after appropriation, to pay capital expenditures; or**

**(2) deposited in the political subdivision's rainy day fund established under IC 36-1-8-5.1.**

**(h) This section may be enforced, subject to the public lawsuit provisions in IC 34, in a private individual or class action suit. Successful plaintiffs are allowed costs and reasonable attorney's fees. The political subdivision may recover costs and reasonable attorney's fees only if a suit against the political subdivision is ruled frivolous.**

**SECTION 8. IC 6-1.1-18-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) A political subdivision, other than a school corporation, may appeal to the department of local government finance in the manner provided by IC 6-1.1-18.5 to increase its total operating expenditure limit by more than the maximum amount allowed under section 13 of this chapter.**

**(b) If in an appeal commenced under subsection (a) the department of local government finance determines that any of the following conditions apply, the department of local**

government finance may increase the political subdivision's total operating expenditure limit by more than the maximum amount allowed under section 13 of this chapter, but by not more than the minimum amount necessary to meet the conditions that form the basis of order:

(1) A political subdivision needs an additional increase to extend services to an area that has been annexed by the political subdivision.

(2) The political subdivision needs an additional increase as the result of additional responsibilities arising from a repel invasion, an insurrection, hostilities, or another emergency declared by the governor.

(3) The political subdivision needs an additional increase to provide a new service that is substantially different from services provided in preceding years.

(4) The political subdivision needs the additional increase and one (1) or more other political subdivisions agree to decrease their total operating expenditure limits in an amount that offsets the increase.

(5) The political subdivision needs the additional increase to provide goods or services that the political subdivision is required to provide under a court order.

(6) The political subdivision needs the additional increase to meet another emergency that presents a high risk of injury or death to one (1) or more individuals.

(7) The political subdivision has additional revenues as a result of an increase in an income tax rate under IC 6-3.5.

(c) The maximum increase allowed under section 13 of this chapter does not limit an increase in the total operating expenditure limit authorized under subsection (b). For purposes of computing the maximum allowable increase under section 13 of this chapter, a political subdivision's total operating expenditure limit for a particular calendar year does not include that part of an increase authorized under subsection (b) unless the department of local government finance determines that the additional increase must be permanent to meet the conditions that form the basis of the order.

(d) The department of local government finance shall, upon its own motion, or upon appeal filed under IC 6-1.1-17-13, decrease a political subdivision's total operating expenditure limit for a year if the department finds, after a hearing, any of the following conditions:

(1) A decrease is needed because the political subdivision has significantly reduced or eliminated one (1) or more services that it previously provided.

(2) A decrease is appropriate because the total operating



1            **expenditure limit substantially exceeds the amount**  
 2            **reasonably necessary for the political subdivision to provide**  
 3            **essential governmental services.**

4            **(3) A decrease is needed because total operating expenditure**  
 5            **limit exceeds available revenues.**

6            SECTION 9. IC 6-1.1-21-10, AS AMENDED BY  
 7            P.L.192-2002(SS), SECTION 43, IS AMENDED TO READ AS  
 8            FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) There is  
 9            established a property tax replacement fund board to consist of the  
 10           commissioner of the department, the commissioner of the department  
 11           of local government finance, the director of the budget agency, and two  
 12           (2) ex officio nonvoting representatives of the general assembly of the  
 13           state of Indiana. The speaker of the house of representatives shall  
 14           appoint one (1) member of the house as one (1) of the ex officio  
 15           nonvoting representatives, and the president pro tempore of the senate  
 16           shall appoint one (1) senator as the other ex officio nonvoting  
 17           representative, each to serve at the will of the appointing officer. The  
 18           commissioner of the department shall be the chairman of the board, and  
 19           the director of the budget agency shall be the secretary of the board.

20           (b) Except as provided in section 10.5 of this chapter, the schedule  
 21           to be used in making distributions to county treasurers during the  
 22           periods set forth in section 4(b) of this chapter is as follows:

23           January	0.00%
24           February	0.00%
25           March	16.70%
26           April	16.70%
27           May	0.00%
28           June	0.00%
29           July	16.60%
30           August	0.00%
31           September	16.70%
32           October	16.70%
33           November	16.60%
34           December	0.00%

35           The board may authorize the department to distribute the estimated  
 36           distributions to counties earlier than what is required under section 4(b)  
 37           of this chapter.

38           (c) The board is also authorized to transfer funds from the property  
 39           tax replacement fund for the purpose of providing financial aid to  
 40           school corporations as provided in IC 21-3. **However, if an amount**  
 41           **is transferred under IC 4-10-18-8 from the counter-cyclical**  
 42           **revenue and economic stabilization fund to the property tax**  
 43           **replacement fund, that amount that exceeds ten percent (10%) of**  
 44           **the total state general fund revenues for that state fiscal year**  
 45           **shall be distributed under this chapter as an additional eligible**  
 46           **property tax replacement amount and shall be used to replace**  
 47           **revenues lost from an additional taxpayer's property tax**  
 48           **replacement credit amount granted under subsection (d). There is**

1 annually appropriated the amount necessary to make the  
2 distribution under this subsection.

3 (d) Each taxpayer of each county shall receive a credit for  
4 property tax replacement in the amount of each taxpayer's  
5 additional property tax replacement credit amount against the  
6 taxpayer's tax liability as determined under section 5 of this  
7 chapter. The additional property tax replacement credits under  
8 this subsection shall be applied to the tax liability of a taxpayer in  
9 conformity with the procedures prescribed by the department of  
10 local government finance.

11 SECTION 10. IC 36-1-8-5.1, AS AMENDED BY P.L.173-2003,  
12 SECTION19 AND P.L.267-2003, SECTION 15, IS AMENDED TO  
13 READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.1. (a) A  
14 political subdivision may establish a rainy day fund ~~by the adoption of:~~  
15 ~~(1) an ordinance, in the case of a county, city, or town; or~~  
16 ~~(2) a resolution, in the case of any other political subdivision. (b) An~~  
17 ~~ordinance or a resolution adopted under this section must specify the~~  
18 ~~following:~~

19 ~~(1) The purposes of the rainy day fund:~~

20 ~~(2) The sources of funding for the rainy day fund:~~

21 ~~(e)~~ to receive transfers of unused and unencumbered funds under:

22 (1) section 5 of this chapter;

23 (2) IC 6-3.5-1.1-21.1;

24 (3) IC 6-3.5-6-17.3;

25 (4) IC 6-3.5-7-17.3; and

26 (5) IC 6-1.1-18-13.

27 (b) Money in a rainy day fund may be used for any  
28 governmental purpose of the political subdivision. The rainy day  
29 fund is subject to the same appropriation process as other funds that  
30 receive tax money. Before making an appropriation from the rainy day  
31 fund, the fiscal body shall make a finding that the proposed use of the  
32 rainy day fund is consistent with the intent of the fund.

33 ~~(d)~~ (c) This subsection applies only to amounts transferred to  
34 a rainy day fund under section 5 of this chapter. In any fiscal year,  
35 a political subdivision may transfer ~~under section 5 of this chapter~~ not  
36 more than ten percent (10%) of the political subdivision's total ~~annual~~  
37 budget ~~adopted under IC 6-1.1-17, for that fiscal year~~ to the rainy day  
38 fund.

39 ~~(e) A political subdivision may use only the funding sources~~  
40 ~~specified in the ordinance or resolution establishing the rainy day fund~~  
41 ~~unless the political subdivision adopts a subsequent ordinance or~~  
42 ~~resolution authorizing the use of another funding source:~~

43 (d) The department of local government finance may not reduce the  
44 actual or maximum permissible levy of a political subdivision as a result  
45 of a balance in the rainy day fund of the political subdivision. **However,**  
46 **if the balance of the rainy day fund exceeds ten per cent (10%) of**  
47 **the political subdivision's budget for a year, the excess money**  
48 **shall be used to temporarily reduce the levies of the political**

1 subdivision in one (1) or more subsequent years, as determined by  
2 the department of local government finance. Use of money from  
3 a rainy day fund to replace property taxes lost as a result of a levy  
4 reduction under this subsection shall be treated for all purposes  
5 as ad valorem property taxes.

6 SECTION 11. [EFFECTIVE JULY 1, 2004] (a) As used in this  
7 SECTION, "political subdivision" has the meaning set forth in  
8 IC 6-1.1-1-12.

9 (b) IC 4-10-21-10, as added by this act, applies only to  
10 expenditures made after June 30, 2005.

11 (c) IC 6-1.1-18-13, as added by this act, applies only to  
12 expenditures made after December 31, 2004.

(Reference is to SB 269 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Finance.

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GARTON

Chairperson